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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,846	03/30/2001	Pascal Bensoussan	M-9972 US	7000

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EXAMINER

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/823,846

Applicant(s)

BENSOUSSAN ET AL.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Non-Final Office Action is in response to the communication received March 30, 2001. Claims 1-22 are pending in the application.

#### **Claim Objections**

2. Claim 21 is objected to because of the following informalities: It appears that claim 21 recites the exact same limitations as claim 20. Appropriate correction is required.

#### **Claim Rejections - 35 USC § 101**

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts of:

(2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, invoice, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to

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pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Furthermore, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

While claims 1-8 produce a useful, concrete, and tangible result, they are deemed to be statutory for failure to apply, involve, use, or advance the technological arts. In order to overcome this rejection, it is respectfully suggested that claims 1-8 be amended to expressly incorporate technology (i.e., a computer processor) as performing at least one of the steps of the invention (i.e., an analysis step). Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 9-14, 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (U.S. Patent No. 6,006,192) in view of Masch (U.S. Patent No. 5,930,762).

As per claims 1, 3, 17-20, Cheng et al disclose a decision-making method for production planning in an uncertain demand environment comprising:

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capturing assumption to create a scenario for one or more products for one or more time planning periods, specifying a component plan to be analyzed, the component plan identifying the quantities of each component that are positioned for each planning period (col. 3, lines 9-60).

Cheng et al disclose the concept of performance measurement for parameters and an identifying scenario(col. 2, lines 29-41), but Cheng et al does not expressly disclose submitting a request for analysis to an analytic engine for calculation of risk and performance indicators. Masch in the same field of endeavor disclosures a risk management system for calculating risk related using scenarios (col. 14, line 58 through col. 15 line 12; col. 16, lines 36-62). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Cheng et al to include the teachings of Masch in order to aid decision-makers in selecting an implementable strategy.

As per claims 6 and 13, Cheng et al further discloses storing the component parameters in a database (col. 2, lines 42-46).

As per claims 9 and 14, claims 9 and 14 are data storage medium having machine-readable code stored thereon, the machine code comprising instructions executable by an array of logic elements, the instruction for performing the steps of method claim 1; therefore is rejected under the same rationale relied upon of claim 1.

As per claims 12, claim 12 is data storage medium for performing the steps of method claim 3; therefore is rejected under the same rationale relied upon of claim 3.

As per claim 16, claim 16 is a system for performing risk under uncertainty of method claim 1, with the only difference that claim 16 teaches a user interface. Cheng et al teaches such a user interface. Note col. 3, line 13 of Cheng et al

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7. Claims 2, 4-5, 7-8, 10-11, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (U.S. Patent No. 6,006,192) in view of Masch (U.S. Patent No. 5,930,762) and further in view of Li (U.S. Patent No. 6,453,303).

As per claims 2, 5 and 8, the combination of Chen et al and Masch does not explicitly disclose calculating one or more risk and performance indicators, returning the risk and performance indicators, storing the risk and performance indicators in a database or other persistent storage system. Li in the same field of endeavor discloses the concept of calculating risk of financial asset, performance of the asset and storing the risk and performance information (col. 7, lines 42-58). It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Chen et al and Masch to incorporate the teachings of Li in order provide timely analysis and advice for financial assets.

As per claims 4, 7, 15, and 22, the combination of Chen et al and Masch fails to disclose retrieving the scenario and component plan from a database, constructing a message including the analysis parameters, the scenario and the component plan, sending the message to an analytic engine. Dietrich in the same field of endeavor teaches the concept of retrieving information and sending messages (col. 1 line 59 through col. 2, line 39). It would have been obvious to a person of ordinary skill in the art to modify the teachings of Chen et al and Masch to include the teachings of Dietrich. A person of ordinary skill in the art would have been motivated to do so in order to maintain up-to-date plans as changes occur in the business environment.

As per claims 10 and 11, claim 10 and 11 are data storage medium for performing the steps of method claim 2; therefore are rejected under the same rationale relied upon of claim 2.

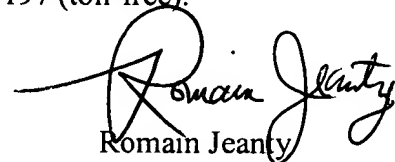
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***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Romain Jeanty

Primary Examiner

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January 10, 2005